

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EARL C. VOILES, III
ANTHONY MAXWELL
GEORGE PUGA
PHILIP GALLEGOS

Plaintiff

v.

No.

14-CV-00428-KBM-SCY
14-CV-00422-SCY-RHS
14-CV-00440-SCY-KBM
14-CV-00441-SCY-RHS

STATE OF NEW MEXICO DEPARTMENT OF PUBLIC SAFETY; and
STATE OF NEW MEXICO LAW ENFORCEMENT ACADEMY; and
GORDEN E. EDEN, Jr. (Former Cabinet Secretary, Department of Public Safety),
in his individual and official capacity; and
PATRICK MOONEY (Deputy Cabinet Secretary, Department of Public Safety),
in his individual and official capacity; and
LOUIS MEDINA (Director of New Mexico Law Enforcement Academy),
in his individual and official capacity; and
JACK JONES (Deputy Director of New Mexico Law Enforcement Academy),
in his individual and official capacity; and
MARK SHEA (Advanced Bureau Chief at New Mexico Law Enforcement Academy),
in his individual and official capacity; and
WILLIAM HUBBARD (Interim Director of New Mexico Law Enforcement Academy).
Defendants.

CONSOLIDATED COMPLAINT FOR DAMAGES

I. JURISDICTION

1. COMES NOW Plaintiffs, by and through their attorney, Joseph E. Campbell, and bring this Complaint For Damages and injuries caused by the Defendants' negligent and tortious conduct. This action is brought pursuant to §41-4-1, et seq, NMSA 1978, Notice of Claims; and §10-16C-1 et seq. NMSA 1978, Whistleblower Protection Act; the Constitution of the United States; the New Mexico Constitution; and the laws of the State of New Mexico.

2. Plaintiff, Earl C. Voiles, III (hereafter Voiles) is an adult individual residing in Sandoval County, New Mexico. At all times relevant to this action Plaintiff Earl Voiles was employed by Defendant, State of New Mexico Law Enforcement Academy.

3. Plaintiff, Anthony Maxwell (hereafter Maxwell) is an adult individual residing in Santa Fe County, New Mexico. At all times relevant to this action Plaintiff, Anthony Maxwell was employed by Defendant, State of New Mexico Law Enforcement Academy.

4. Plaintiff, George Puga (hereafter Puga) is an adult individual residing in Santa Fe County, New Mexico. At all times relevant to this action Plaintiff George Puga was employed by Defendant, State of New Mexico Law Enforcement Academy.

5. Plaintiff, Phillip Gallegos (hereafter Gallegos) is an adult individual residing in Rio Arriba County, New Mexico. At all times relevant to this action Plaintiff Phillip Gallegos was employed by Defendant, State of New Mexico Law Enforcement Academy.

6. Defendant, State of New Mexico Department of Public Safety (hereafter NM DPS) is a governmental law enforcement entity within New Mexico and maintains offices at 4491 Cerrillos Rd., Santa Fe, NM 87507. At all times relevant to this action Defendant, State of New Mexico Department of Public Safety operated the State of New Mexico Law Enforcement Academy. At all times material to this action the New Mexico Department of Public Safety employed Defendants Gordon E. Eden, Jr. and Patrick Mooney.

7. Defendant, State of New Mexico Law Enforcement Academy (hereafter NM LEA) is a governmental law enforcement entity located in Santa Fe County, New Mexico and maintains offices at 4491 Cerrillos Rd., Santa Fe, NM 87507. At all times relevant to this action

II. PARTIES

Defendant, State of New Mexico Department of Public Safety operated the State of New Mexico Law Enforcement Academy. At all time material to this action the New Mexico Law Enforcement Academy employed Plaintiffs and Defendants William Hubbard, Louis Medina and Jack Jones.

8. Defendant, Gordon E. Eden, Jr. (hereafter Eden) at all times material to this action was the Cabinet Secretary of the New Mexico Department of Public Safety.

9. Defendant, Patrick Mooney (hereafter Mooney) at all times material to this action was the Cabinet Deputy Secretary of the New Mexico Department of Public Safety.

10. Defendant, Louis Medina (hereafter Medina) at all times material to this action was the Director of the New Mexico Law Enforcement Academy. At all times material to this action Louis Medina was the direct supervisor of Defendant Jack Jones.

11. Defendant, Jack Jones (hereafter Jones) at all times material to this action was the Deputy Director of the New Mexico Law Enforcement Academy. At all times material to this action Jack Jones was a direct supervisor of Plaintiffs Voiles, Maxwell, Puga and Gallegos.

12. Defendant, Mark Shea (hereafter Shea) at all times material to this action was the Advanced Bureau Chief of the New Mexico Law Enforcement Academy. At all times material to this action Mark Shea was a direct supervisor of Plaintiffs Voiles, Maxwell, and Puga.

13. Defendant William Hubbard (hereafter Hubbard) at all times material to this action was the Interim Director of the New Mexico Law Enforcement Academy. At all times material to this action William Hubbard was a direct supervisor of Plaintiff Voiles, Maxwell, Puga and Gallegos.

COUNT 1 – NEGLIGENCE and WHISTLE BLOWER RETALIATION

OCCURRENCE 1 – DORMATORY and CAFETERIA

AS TO ALL PLAINTIFFS

14. Paragraphs 1 through 13 above are incorporated herein as if set forth at length.

15. Plaintiff Voiles was hired by Defendant NMLEA on January 7, 2012 as an instructor at the New Mexico Law Enforcement Academy for both the basic and advanced training divisions.

16. Plaintiff Voiles' primary job assignments included, but were not limited to: curriculum development of both basic and advanced police officer training lesson plan; coordinate and conduct "Special Skills" training related to basic and advanced police officer training; assist in monitoring budget analysis and inventory of equipment related to the basic and advanced police officer training; and, assist in the recommendation and implementation of new instructional technologies for inclusion to basic and advanced police officer training.

17. Plaintiff Maxwell was hired by Defendant NMLEA on January 7, 2012 as an instructor at the New Mexico Law Enforcement Academy for both the basic and advanced training divisions.

18. Plaintiff Maxwell's primary job assignments included, but were not limited to: curriculum development of both basic and advanced police officer training lesson plan; coordinate and conduct "Special Skills" training related to basic and advanced police officer training; assist in monitoring budget analysis and inventory of equipment related to the basic and advanced police officer training; and, assist in the recommendation and implementation of new instructional technologies for inclusion to basic and advanced police officer training.

19. Plaintiff Puga was hired by Defendant NMLEA on January 7, 2012 as an instructor at the New Mexico Law Enforcement Academy for both the basic and advanced training divisions.
20. Plaintiff Puga's primary job assignments included, but were not limited to: curriculum development of both basic and advanced police officer training lesson plan; coordinate and conduct "Special Skills" training related to basic and advanced police officer training; assist in monitoring budget analysis and inventory of equipment related to the basic and advanced police officer training; and, assist in the recommendation and implementation of new instructional technologies for inclusion to basic and advanced police officer training.
21. Plaintiff Gallegos was hired as Bureau Chief of the Basic Police Officer Training Bureau on May 14, 2011.
22. Plaintiff Gallegos was commissioned as a Special Investigations Division Agent by Secretary Gordon Eden on September 25, 2011.
23. Plaintiffs Voiles, Maxwell, and Puga were required to become certified police officers with the position of Police and Sheriff Patrol Officer Advanced, equivalent to the rank of agent/sergeant.
24. Plaintiff Gallegos was required to become a certified police officer and was required to perform all of the duties of the basic bureau chief.
25. All Plaintiffs were also required to become certified instructors at the NMLEA.
26. Additionally, Plaintiffs Voiles, Maxwell, Puga and Gallegos were required to periodically supervise the cadets after instructional hours, to handle any emergency and/or problems that arose with the cadets, which were housed at the Law Enforcement Academy.

27. To facilitate the long work schedule and requirement of periodic supervision while cadets were attending classes at the Law Enforcement Academy, Plaintiffs Voiles, Maxwell, Puga and Gallegos, were told by William Hubbard as later reaffirmed by Louis Medina and Deputy Director Andy Montoya, that they were allowed to stay in the Law Enforcement Academy dorms and eat at the cafeteria, free of charge, as benefits of their employment.

28. In February of 2012, Plaintiffs Voiles, Maxwell, Puga and Gallegos also notified Defendant Hubbard and Assistant Director Andy Montoya that there were problems with the Cadet dormitories including lack of proper heating, hot water, a strong odor of gas, disconnected fire alarms, and lack of personal hygiene supplies. Additionally, the only elevator available for use by handicapped or disabled individuals was inoperable.

29. Following an incident on February 22, 2012, involving a "man with a rifle" adjacent to the Law Enforcement Academy property, it was discovered by Plaintiff Anthony Maxwell that the Emergency Evacuations and Shelter in Place Plan in effect for the Law Enforcement Academy was out of date.

30. On February 22, 2012 Plaintiff Maxwell submitted a report entitled "Emergency Shelter in Place Event". This report detailed serious fire and safety compliance deficiencies at

LEA.

31. Plaintiff Maxwell's report contained 13 separate recommendations to the Law Enforcement Academy Directors concerning fire, evacuation and health and safety issues at

LEA.

32. Plaintiff Gallegos concurred in the recommendations in the report and forwarded

this report to Andy Montoya and Defendant Hubbard.

33. On February 23, 2012, Plaintiff Gallegos ordered an evacuation of the LEA dormitories after discovering a heavy gas odor was present. Santa Fe Fire was called and they arrived and vented the dormitory.

34. As a result of this incident it was discovered a gas valve would purge gas when pressure reached a certain level.

35. Also as a result of this incident it was discovered that the LEA dormitory fire alarms were not connected to the Santa Fe City Fire Department.

36. Plaintiffs Voiles, Maxwell, Puga and Gallegos raised these and additional concerns about the water and HVAC system of the dormitories to Defendant Hubbard in a memo dated February 23, 2012

37. For the early months of 2012 Plaintiffs Voiles, Maxwell, Puga and Gallegos reported to Defendant Hubbard and Assistant Director Montoya that at least 29 cadets and instructor staff from class 183, as well as additional cadets and instructors from the State Police Training Academy, had complained of being sick due to eating in the LEA cafeteria.

38. In March of 2012, Plaintiffs Voiles, Maxwell, Puga and Gallegos continued to report to Defendant Medina and Andy Montoya that cadets were still getting sick from eating at the LEA cafeteria and continued deficiencies with the LEA dormitories.

39. On May 8, 2012, Plaintiff Maxwell became seriously ill and was hospitalized after eating at the Academy cafeteria.

40. On May 12, 2012 Plaintiff Voiles contacted the New Mexico State Health Department, on behalf of Plaintiff Maxwell concerning the LEA cafeteria. The Academy cafeteria was ordered shut down for various violations of the health code and extensive repairs were needed before the cafeteria could be reopened.

41. Following these incidents Plaintiffs Voiles, Maxwell, Puga and Gallegos were told by Defendant Medina, that Defendant Mooney had ordered that Plaintiffs Voiles, Maxwell, Puga and Gallegos were no longer allowed to stay in the Academy dormitories or eat at the Academy cafeteria for free.

42. Following the denial of the use of the dormitories, when instructors worked extended hours they were required to sleep in their cars, in full view of the cadets.

43. Additionally, Plaintiffs Voiles, Maxwell, Puga and Gallegos were subsequently told by Defendant Medina that they were to have no contact with the police cadets after 5:00 p.m.

44. As detailed above Plaintiffs Voiles, Maxwell, Puga, and Gallegos, during their employment with Defendant, LEA, reported and made know numerous problems, irregularities, improper and possibly illegal activities with the operation of the LEA dormitory and cafeteria.

45. As a result of Plaintiffs Voiles, Maxwell, Puga, and Gallegos reporting of these issues they were retaliated against by the Defendants as detailed above.

46. The retaliation included, but was not limited to, being threatened with loss of their job, having privileges and benefits taken away, having statutory due process rights violated and having their constitutional rights violated.

47. All Defendants were prohibited from retaliatory actions against Plaintiffs Voiles, Maxwell, Puga and Gallegos' disclosure of the above detailed problems pursuant to NMSA 10-16C-1 et seq.

48. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiffs Voiles,

Maxwell, Puga and Gallegos for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondent superior*.

49. As a direct and proximate result of the actions of all Defendants, Plaintiffs Voiles, Maxwell, Puga and Gallegos suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiffs Voiles, Maxwell, Puga and Gallegos demand judgment in their individual favor and against all Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 2 – NEGLIGENCE and WHISTLE BLOWER RETALIATION

OCCURRENCE 2 – CURRICULUM

AS TO ALL PLAINTIFFS

50. Paragraphs 1 through 49 above are incorporated here as if set forth at length

51. Beginning with Basic Cadet Class 182 in 2011, Plaintiff Gallegos noticed deficiencies with the Basic Academy curriculum and inquired about current course instruction material. Acting Director of LEA Gil Najar showed Plaintiff Gallegos outdated course instruction material from 2003 and 2004, and some as far back as the 1990's.

52. Plaintiff Gallegos was told by acting Director of LEA Gil Najar to develop his own material in place of the outdated material. None of the materials that Plaintiff Gallegos developed and taught to Basic Cadet Class 182 was ever approved, certified or accredited as required by the NMAC and LEA Guidelines.

53. In January of 2012, Plaintiffs Voiles, Maxwell, Puga, and Gallegos informed Defendant William Hubbard that the Basic Academy curriculum, as required by the NMAC and LEA Guidelines, were dangerously out of date.

54. Plaintiffs Voiles, Maxwell, Puga and Gallegos recommended that the Law Enforcement Academy be shut down while the curriculum was updated. This recommendation was made orally to Andy Montoya and Defendant Medina.

55. On February 13, 2012 Plaintiff Gallegos submitted a letter of recommendations to Defendant Hubbard, per Hubbard's request, that would help in the operation of the Law Enforcement Academy's mission.

56. Upon submission of this letter, Interim Director Hubbard threatened Plaintiff Gallegos with termination and stated, "Do you realize you are a probationary employee and can be dismissed without cause?"

57. Interim Director Hubbard also told Plaintiff Gallegos that his submission of the letter showed a lack of confidence in the DPS leadership.

58. On March 9, 2012 Plaintiff Gallegos submitted another Memo to Defendant Medina and Andy Montoya specifically addressing the Basic Academy and Satellite Academy Curriculums and the fact that the curriculums were dangerously outdated.

59. This memo specifically stated, "My recommendation is to consider postponing the next academy class so that we can devote all our time and efforts to re-writing the lesson plans."

60. Finally, following the completion of Basic Cadet Class 183 Plaintiffs Voiles, Maxwell and Puga were required to appear before an LEA Special Investigative Committee, convened by Defendant Eden, comprised of three outside, independent Police Department

Command Staff personnel, where they made the same recommendations, for a third time, to close the LEA until the curriculum could be updated, certified and accredited.

61. In February of 2012, Defendants Medina and Shea both stated to Plaintiffs Voiles, Maxwell, Puga and Gallegos that the Basic Academy curriculum was not accredited; however, each of the cadet classes were simply certified upon graduation. This is a violation of the NMAC and LEA Guidelines.

62. For Basic Cadet Class 183, Plaintiff Puga requested course instruction material for the patrol procedures section of instruction. Defendant Shea provided Plaintiff Puga with a flash drive containing outdated and incomplete material which was not certified or accredited as required by the NMAC and LEA Guidelines.

63. Plaintiff Puga had to rush to develop current course material for patrol procedures and submit them to Defendant Shea for approval, certification and accreditation.

64. Plaintiff Puga developed curriculum for Radio Procedures, Patrol Response Simulations, Night Time Practicum and Night Time Building Searches.

65. Defendant Shea never approved, certified or accredited these lesson plans but required Plaintiff Puga to teach the lessons.

66. For Basic Cadet Class 183, Plaintiffs Voiles, Maxwell, Puga and Gallegos were instructed by acting Director Gil Najjar to teach the legal course (block four) following Instructor Elliot Guttman's last minute decision not to teach the legal course.

67. Plaintiffs Voiles, Maxwell, Puga and Gallegos complained to Defendant Shea about Elliot Guttman's failure to teach the legal course and the complications it was causing.

68. Defendant Shea did not provide any course material for the legal block to Plaintiffs for use in teaching the legal course other than cartoon slides. Upon information and

belief, these were the same cartoon slides used by the Albuquerque Police Academy which the U.S. Department of Justice stated were inadequate for instructional purposes.

69. Plaintiff Puga asked Defendant Shea for any additional course material on the legal course but none was provided. Plaintiffs Voiles, Maxwell, Puga and Gallegos had to develop their own material for the legal block of instruction.

70. None of the materials developed and taught by Plaintiffs Voiles, Maxwell, Puga and Gallegos were approved, certified or accredited by Defendant Shea even though they were submitted to Defendant Shea for approval.

71. Following completion of Basic Cadet Class 183, Plaintiffs Voiles, Puga and Maxwell were the subjects of an internal investigation by an LEA Special Investigative Committee, convened by Defendant Eden, comprised of three outside, independent Police Department Command Staff personnel.

72. The purported basis of the investigation was a June 2012 anonymous letter to Crime Stoppers alleging Plaintiffs Voiles, Maxwell and Puga provided test answers to the cadets of class 183.

73. In August of 2012 the LEA Special Investigative Committee produced an extensive report which cleared Plaintiffs Voiles, Maxwell and Puga of any wrongdoings and publically commended them on their work.

74. Elliot Guttman was instructed by Defendant Shea to teach Basic Cadet Class 184 it legal course. The class had an excessively high failure rate.

75. Plaintiffs Voiles, Maxwell, Puga and Gallegos were instructed by Defendant Medina to re-teach the class taught by Elliot Guttman.

76. Plaintiffs Voiles, Puga and Gallegos used the material they developed for Basic Cadet 183 to teach Basic Cadet Class 184 its legal course. This material had still not been approved or certified as required by the NMAC and LEA Guidelines.

77. Additionally, Plaintiffs Voiles, Maxwell and Puga were not certified as instructors by the LEA for Basic Cadet Class 183 or 184.

78. Plaintiffs Voiles, Maxwell and Puga were not certified as LEA instructors until November 30, 2012 after the completion of Basic Cadet Class 184.

79. For Basic Cadet Classes 183 and 184, upon information and belief, none of the courses taught by Plaintiff Voiles, Maxwell, Puga and Gallegos were certified or accredited as required by the NMAC and LEA Guidelines.

80. Upon information and belief, none of the Basic LEA courses were properly updated, certified or accredited from 2004 through 2013, with the exception of Firearms Training and Defensive Tactics.

81. During their respective tenure at LEA Plaintiffs Voiles, Maxwell, Puga and Gallegos were unable to find any Basic course instruction material which were properly approved, certified or accredited.

82. Additionally, the Basic course instruction material which was provided to Plaintiffs did not contain the certification and accreditation as required by the NMAC and LEA Guidelines.

83. Upon information and belief, none of the Basic course instruction for any of the nine New Mexico Satellite Academies certified by LEA was properly updated, approved, certified or accredited from 2004 to present.

84. During their respective tenure at LEA Plaintiffs Voiles, Maxwell, Puga and Gallegos were unable to find any Basic course instruction material for any of the satellite academies which were properly approved, certified or accredited.

85. During their respective tenure at LEA Plaintiffs Voiles, Maxwell, Puga and Gallegos also taught the Public Safety Telecommunications Curriculum for the Dispatcher's (911 Dispatcher's) Academy.

86. Upon information and belief, none of the Dispatcher's Academy's course instruction material were properly updated, certified or accredited from 2004 through 2013.

87. During their respective tenure at LEA Plaintiffs Voiles, Maxwell, Puga and Gallegos were unable to find any Dispatcher Academy course instruction material which were properly approved, certified or accredited.

88. Additionally, the Dispatcher Academy course instruction material which was provided to Plaintiffs did not contain the certification and accreditation as required by the NMAC and LEA Guidelines.

89. Upon information and belief, none of the Dispatcher Academy courses were properly updated, certified or accredited from 2004 through 2013.

90. During their respective tenure at the LEA Plaintiffs Voiles, Maxwell, Puga and Gallegos observed that some of the Advanced Officer Bi-annual Certification course instruction was taken directly from the Basic Cadet Academy.

91. Upon information and belief, some of the Advanced Officer Bi-annual Certification course instruction, which was taken directly from the Basic Cadet Academy, was not properly updated, approved, certified or accredited from 2004 to present.

92. Plaintiffs agree with the DOJ findings and allege that the failure to have properly certified and standardized instruction for law enforcement officers makes it impossible to ensure the training the officers receive accurately reflects the state of the law and/or the best policing practices. In addition it is impossible to tell whether the content of the instruction the Cadets received was the same from one academy class to the next and thus whether cadets came into the field with the same base of knowledge.

93. Following these incidents Plaintiffs Voiles, Maxwell, Puga and Gallegos were ordered by Defendants Medina, Mooney and Eden that Plaintiffs were prohibited from discussing the fact that the curriculum was not certified with anyone outside of the Law Enforcement Academy.

94. As detailed above Plaintiffs Voiles, Maxwell, Puga, and Gallegos, during their employment with Defendant, LEA, reported and made know numerous problems, irregularities, improper and possibly illegal activities associated with LEA curriculum.

95. As a result of Plaintiffs Voiles, Maxwell, Puga, and Gallegos' reporting of these issues they were retaliated against by the Defendants as detailed above.

96. The retaliation included, but was not limited to, being threatened with loss of their job, having privileges and benefits taken away, having statutory due process rights violated and having their constitutional rights violated.

97. All Defendants were prohibited from retaliatory actions against Plaintiffs Voiles, Maxwell, Puga and Gallegos' disclosure of the above detailed problems pursuant to NMSA 10-16C-1 et seq.

98. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiffs Voiles,

Maxwell, Puga and Gallegos for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondent superior*.

99. As a direct and proximate result of the actions of all Defendants, Plaintiffs Voiles, Maxwell, Puga and Gallegos suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiffs Voiles, Maxwell, Puga and Gallegos demand judgment in their individual favor and against all Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 3 – NEGLIGENCE and WHISTLE BLOWER RETALIATION OCCURRENCE 3 – ACADEMY INVENTORIES and FIREARMS ALL PLAINTIFFS

100. Paragraphs 1 through 99 above are incorporated herein as if set forth at length.

101 In February of 2012, Plaintiff Gallegos was instructed by Assistant Director Andy Montoya to conduct an inventory of the Academy property.

102. Plaintiff Gallegos informed Assistant Director Andy Montoya that Plaintiffs Voiles, Maxwell and Puga would be assigned to conduct an inventory of Academy property including, computers, firearms, vehicles and supplies. Assistant Director Andy Montoya agreed to this assignment of personnel.

103. On February 15, 2012, Plaintiffs Puga and Maxwell found 89 missing laptops in the Law Enforcement Academy vault, which had to be drilled to be opened. Each of the 89 missing laptop boxes had a tag on it that read "Property of Mark Shea".

104. Also found in the Law Enforcement Academy vault were numerous handguns, weapon components, training batons, training aides, and other Academy equipment, much of which did not appear on any Academy inventory list.

105. On March 21, 2012, after his arrival as LEA Director, Defendant Medina ordered Plaintiff Gallegos to begin an inventory of the Law Enforcement Academy firearms, after numerous unrecorded firearms, including loaded semi-automatic rifles, pistols and revolvers, were found in Defendant Shea's office.

106. Plaintiff Gallegos, with the approval of Defendant Medina, assigned Plaintiffs Voiles, Maxwell and Puga, to begin an inventory of the Law Enforcement Academy firearms, including handguns, shotguns, and semi-automatic rifles.

107. Plaintiffs Voiles, Maxwell and Puga quickly determined that many of these firearms were either missing or not present. It was also discovered that many of the firearms that were located were not listed on any known inventories.

108. Plaintiffs Voiles, Maxwell, Puga and Gallegos made the issue of the firearms and other LEA property and equipment know to Defendants Eden, Mooney, Medina and Shea.

109. Defendants Eden, Mooney, Medina and Assistant Director Andy Montoya all inspected the firearms recovered by Plaintiffs Voiles, Maxwell, Puga and Gallegos.

110. Defendant Eden informed Plaintiffs Voiles, Maxwell, Puga, and Gallegos that he was not surprised by their findings since when Defendant Eden was an instructor at LEA, several gun manufacturers gave the instructors firearms. Defendant Eden stated that these firearms were never put on the inventory lists and that many of the instructors took the firearms home.

111. Shortly after this incident Plaintiffs Voiles, Maxwell, Puga and Gallegos were abruptly ordered by Defendant Medina and Andy Montoya to cease any and all inquiries into the

inventory of the Law Enforcement Academy firearms and to stop all investigations as to possible missing or stolen weapons.

112. Plaintiffs Voiles, Puga and Gallegos were told by Defendant Medina and Andy Montoya that the order to cease the firearms inventory and investigation came from Defendant Eden.

113. Plaintiffs Voiles, Maxwell, Puga and Gallegos were instructed not to discuss the firearms inventory and possible missing and/or stolen weapons with anyone outside the Law Enforcement Academy.

114. Subsequently in December 2012, Plaintiff Gallegos received a phone call from Fairbanks, Alaska PD and was notified that the Fairbanks Alaska PD had a handgun in their possession that was registered to NM DPS. Also present during this telephone conversation was Plaintiff Maxwell.

115. Plaintiffs Maxwell and Gallegos made this fact know to Defendant Mooney.

116. Plaintiff Gallegos was subsequently told by DPS Head of Standards (Internal Affairs), Major Scott Weaver, not to discuss the handgun found in Alaska with anybody.

117. Subsequently on December 20, 2012, Plaintiff Puga, during the course of an

internal affairs investigation, was asked by Major Weaver about a telephone call Plaintiff Puga had received from Governor Susana Martinez's office concerning missing firearms. Plaintiff Puga informed Major Weaver that he had received a call from Governor Martinez's office about missing firearms but had stated to the caller that he was under orders from Defendant Eden not to discuss the issue.

118. When Major Weaver asked Plaintiff Puga if he had any idea where the missing firearms might be, Plaintiff Puga responded that the missing weapons could likely be in Mexico.

119. Major Weaver angrily told Plaintiff Puga not to ever state that the missing weapons might be in Mexico with the drug cartels and told him to never mention the missing weapons again.

120. Additional inventories conducted by Plaintiffs Voiles, Maxwell, Puga and Gallegos revealed other serious problems and deficiencies involving the Academy vehicles, gas cards, computer equipment and supplies.

121. Following these incidents Plaintiffs Voiles, Maxwell, Puga and Gallegos noticed that their computers were being monitored by a ghost program.

122. Following these incidents Plaintiffs Voiles, Maxwell, Puga and Gallegos also notice that information was being deleted from their computer without their knowledge and permission.

123. Plaintiffs Voiles, Maxwell, Puga and Gallegos addressed their computer issues with Defendant Mooney. Defendant Mooney told Plaintiff Voiles Maxwell, Puga and Gallegos that the IT department confirmed that their computers had been tampered with remotely; however, no further action was ever taken.

124. Defendant Shea was in charge of the computers at the Academy and had the passwords to everyone's computers.

125. As detailed above Plaintiffs Voiles, Maxwell, Puga, and Gallegos, during their employment with Defendant, LEA, reported and made know numerous problems, irregularities, improper and possibly illegal activities associated with missing LEA firearms and equipment.

126. As a result of Plaintiffs Voiles, Maxwell, Puga, and Gallegos' reporting of these issues they were retaliated against by the Defendants as detailed above.

127. The retaliation included, but was not limited to, being threatened with loss of their job, having privileges and benefits taken away, having statutory due process rights violated and having their constitutional rights violated.

128. All Defendants were prohibited from retaliatory actions against Plaintiffs Voiles, Maxwell, Puga and Gallegos' disclosure of the above detailed problems pursuant to NMSA 10-16C-1 et seq.

129. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiffs Voiles, Maxwell, Puga and Gallegos for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondent superior*.

130. As a direct and proximate result of the actions of all Defendants, Plaintiffs Voiles, Maxwell, Puga and Gallegos suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiffs Voiles, Maxwell, Puga and Gallegos demand judgment in their individual favor and against all Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 4 – WRONGFUL TERMINATION

ANTHONY MAXWELL – ALL DEFENDANTS

131. Paragraphs 1 through 130 are incorporated herein as if set forth at length.

132. In late October or early November of 2012 Plaintiff Maxwell met with Defendants Eden and Mooney and discussed the problems at the Law Enforcement Academy

related the curriculum, missing firearms and equipment. Plaintiff Anthony Maxwell showed Defendants Eden and Mooney a "link analysis chart" which he had prepared.

133. On November 27, 2012, Plaintiff Maxwell met with Defendant Medina and discussed the problems and deficiencies related to the LEA. At that meeting Defendant Medina assured Plaintiff Maxwell that he would pass his probationary period.

134. On December 7, 2012, Defendants Mooney and Shea met with Law Enforcement Academy staff, including Plaintiffs Voiles, Maxwell, Puga and Gallegos and again prohibited them from discussing any LEA problems or issues with anyone outside of the Academy or DPS.

135. From October to December of 2012, Plaintiffs Voiles, Maxwell, Puga and Gallegos met with New Mexico State Police Internal Affairs Officer, Major Scott Weaver, both individually and in groups, to discuss problems related to the LEA.

136. Plaintiff Maxwell allowed Major Weaver to take the "link analysis chart" to review it. After Major Weaver returned the "link analysis chart" he stated that it was his job to "protect both the Cabinet Secretary (Defendant Eden) and the New Mexico State Police Chief".

137. On December 27, 2012, Plaintiff Maxwell was given an "exemplary" employee evaluation.

138. Subsequently, on December 27, 2012, Plaintiff Maxwell was given a termination notice by Defendants Medina and Jones. The termination notice was personally issued by Defendants Eden and Mooney, terminating Plaintiff Maxwell effective December 28, 2012.

139. Plaintiff Maxwell was terminated, in violation of the Whistleblower Protection act, for investigating issues related to the Basic Academy curriculum, and missing firearms and equipment and for either drafting or participating in the creation of memos to Defendants Eden, Mooney, Medina, Jones and Shea.

140. Plaintiff Maxwell was terminated, in violation of the Whistleblower Protection Act, in retaliation for disclosing the issues related to the Basic Academy curriculum, missing firearms and equipment to persons outside of the LEA, including but not limited to, Major Weaver.

141. Plaintiff Maxwell was terminated, in violation of the Whistleblower Protection Act, seven (7) days short of his anniversary date and release from probationary status, thereby denying him a right of appeal before the State Personnel Board, in an attempt to cover up the issues related to the Basic Academy curriculum, missing firearms and equipment.

142. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiff Maxwell for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondeat superior*.

143. As a direct and proximate result of the actions of all Defendants, Plaintiff Maxwell suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Maxwell demands judgment in his favor and against all Defendants, jointly and/or severely, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 5 – DEFACTION

ANTHONY MAXWELL – DEFENDANTS JONES, EDEN AND MOONEY

144. Paragraphs 1 through 143 are incorporated herein as if set forth at length.

145. Plaintiff Maxwell, in January of 2013, following his termination filed, a formal complaint with the New Mexico Attorney General's Office, a formal complaint with the Public Corruption/White Collar Crimes Unit of the FBI and provided a verbal briefing to Chief Harry Betz of the Law Enforcement Academy Board, concerning the problems at the LEA. Plaintiff Maxwell provided supporting documentation to both the Attorney General's Office and the FBI. 146. Subsequently, in January of 2013, Defendant Jones, during a meeting with LEA instructors, including Plaintiffs Voiles, Puga and Gallegos, stated that "Maxwell is to shut his trap" and that they were already dealing with Plaintiff Maxwell. 147. Defendant Jones also told the LEA instructors, including Plaintiffs Voiles, Puga and Gallegos, that "any other instructors who join him (Maxwell) will be brought up on charges of malicious inventory prosecution." 148. At this same meeting the LEA instructors, including Plaintiffs Voiles, Puga and Gallegos, were threatened with termination if they associated with Plaintiff Maxwell and were told that if they associated with Plaintiff Maxwell they would never work in New Mexico as a law enforcement officer again. 149. Defendant Jones subsequently told the LEA instructors, including Plaintiffs Voiles, Puga and Gallegos, that Plaintiff Maxwell was terminated for unprofessional behavior and lying about the Academy. 150. Defendant Jones stated that he had just come from a meeting with Defendants Eden and Mooney and indicated that these directives came from them. 151. Defendant Jones also used Plaintiff Maxwell's name in a derogatory manner with statements like "Don't get yourself Maxwellled" and "Don't be a Maxwell".

152. Defendants' statements that Plaintiff Anthony Maxwell was terminated for unprofessional behavior and lying about the Academy were concerning Anthony Maxwell.

153. Additionally, Defendants' derogatory use of Plaintiff Anthony Maxwell's name as detailed above, were concerning Anthony Maxwell.

154. Defendants' statements were made to the other Law Enforcement Academy instructors.

155. Defendants' statements were false and exposed Plaintiff Anthony Maxwell to contempt, harmed his reputation and/or discouraged others from associating or dealing with him.

156. Defendants' statements were negligently made and conveyed its meaning to the instructors of the Law Enforcement Academy.

157. As a direct and proximate result of Defendants' statements, Plaintiff Anthony Maxwell, has suffered injuries and damages including, but not limited to the following:

- a. Out of pocket expenses for legal fees;
- b. Harm to plaintiff's good name and character among his friends, neighbors and acquaintances;
- c. Harm to plaintiff's good standing in the community;
- d. Personal humiliation;
- e. Decreased social activities and loss of life's pleasures; and,
- f. Mental anguish and suffering;

WHEREFORE, Plaintiff Maxwell demands judgment in his favor and against all Defendants, jointly and/or severally, and an award for compensatory damages and punitive damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 6 – CONSTRUCTIVE DISCHARGE

GEORGE PUGA – ALL DEFENDANTS

158. Paragraphs 1 through 157 above are incorporated herein as if set forth at length.
159. On October 11, 2012 Plaintiff Voiles, together with Plaintiffs Maxwell, and Puga authored an 8 page memorandum. The memorandum subject was “Hostile Work Environment, Workplace Stress, Unaccountability of State Resources, Breach of Contract”.
160. On October 11, 2012, this memorandum was forwarded by Plaintiff Gallegos to Defendant Medina.
161. On December 7, 2012, Defendant Mooney met with the Law Enforcement Academy staff, including Plaintiffs Voiles, Maxwell, Puga, and Gallegos and again prohibited them from discussing any LEA problems or issues with anyone outside of the Academy or DPS.
162. From October to December of 2012, Plaintiff Puga, as well as other Academy instructors, met with New Mexico State Police Internal Affairs Officer, Major Scott Weaver, both individually and in groups, to discuss problems related to the LEA.
163. On December 27, 2012, Plaintiff Maxwell was terminated effective December 28, 2012.
164. Subsequently, in January of 2013, Defendant Jones also told the LEA instructors, including Plaintiffs Voiles, Puga and Gallegos, that “any other instructors who join him (Maxwell) will be brought up on charges of malicious inventory prosecution.”
165. At this same meeting the LEA instructors, including Plaintiffs Voiles, Puga and Gallegos, were threatened with termination if they associated with Plaintiff Maxwell and were told that if they associated with Plaintiff Maxwell they would never work in New Mexico as a law enforcement officer again.

166. Plaintiff Puga was present at this meeting.
167. Plaintiff Puga continued to associate with Anthony Maxwell.
168. On or about January 22, 2013 Defendant Jones told Plaintiff Puga and other Academy instructors, including Plaintiffs Voiles and Gallegos, the staff would have to start "Teaching the Test" to the police cadets.
169. On or about January 23, 2013, Plaintiffs Puga and Voiles informed Bureau Chief Gallegos they heard Academy Instructor Elliot Guttmann reading test questions to the cadets.
170. On or about January 23, 2013, Plaintiff Puga was ordered out of the class by Defendant Jones. Plaintiff Puga heard Defendant Jones yelling at the cadets.
171. On or about January 29, 2013 Defendant Jones has a meeting with the LEA staff. Plaintiffs Voiles, Puga and Gallegos raised concerns because they were told they had to "Start Teaching the Test".
172. In February of 2013, Plaintiffs Voiles, Puga and Gallegos were given written reprimands for "Sleeping in the dormitories and eating in the dining facility". Plaintiff Puga responded to the erroneous accusations in writing.
173. On numerous occasions in early 2013, Defendant Jones became aggressive and angry toward Plaintiff Puga. On these occasions Defendant Jones would stand directly in front of Plaintiff Puga, within a couple of inches of Plaintiff Puga, with clenched fists and yell at Plaintiff Puga because Plaintiff Puga's refusal to teach the tests.
174. When Plaintiff Puga was confronted by Defendant Jones he was in fear that Defendant Jones was going to hit him.

175. Plaintiff Puga attempted on several occasions, during his employment with LEA, to file complaints with the LEA Human Resources Department concerning the above listed actions and was prohibited from doing so.

176. Some time prior to May 24, 2013, Plaintiff Puga was placed under investigation by DPS without being given notice as required by state statute.

177. The above listed conduct became so oppressive that Plaintiff George Puga was forced to resign his position on May 24, 2013.

178. Defendants' actions as detailed above, including but not limited to the continued threats of termination, violations of Plaintiff Puga's statutory and Constitutional rights, retaliation in violation of the Whistleblower Protection Act, and failure to allow Plaintiff to file complaints with LEA Human Resources Department created working conditions so intolerable that Plaintiff had no choice but to resign from his position even though Plaintiff Puga had received an exemplary performance evaluation.

179. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiff for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondet superior*.

180. As a direct and proximate result of the actions of all Defendants, Plaintiff Puga suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Puga demands judgment in his favor and against all Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 7 - VIOLATION OF DUE PROCESS
GEORGE PUGA – ALL DEFENDANTS

181. Paragraphs 1 through 180 are incorporated herein as if set forth at length.

182. Some time prior to May 24, 2013, Plaintiff Puga was placed under investigation by DPS without being given notice as required by state statute.

183. Pursuant to 29-14-2 and 29-14-4 an officer under investigation is to be notified of such and certain rights shall then attach.

184. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy had a duty to follow the requirements and did not do so.

185. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiff for the actions or omissions of Defendants Eden, Moonney, Medina, Jones and Shea under the doctrine of *respondet superior*.

186. As a direct and proximate result of the actions of all Defendants, Plaintiff George Puga suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff George Puga demands judgment in his favor and against all Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 8 – WRONGFUL TERMINATION
PHILIP GALLEGOS – ALL DEFENDANTS

187. Paragraphs 1 through 186 are incorporated herein as if set forth at length.

188. In January of 2013, Plaintiff Gallegos was informed by Defendant Jones that Internal Affairs needed to speak to him on January 18, 2013 regarding instructors staying in the dormitories after being told they could not.
189. Defendant Jones told Plaintiff Gallegos how he should answer questions during this interview. Plaintiff Gallegos did not follow the instructions provided by Defendant Jones.
190. On January 18, 2013, Plaintiff Gallegos was interviewed by Scott Weaver, NMSP Internal Affairs.
191. In February of 2013, Plaintiffs Voiles, Puga and Gallegos were given written reprimands for "Sleeping in the dormitories and eating in the dining facility". Plaintiff Gallegos responded to the erroneous accusations in writing.
192. In January, 2013, Administrative Assistants Erica Esquibel and Michelle Himbarger reported to Plaintiff Gallegos that Defendant Jones wanted them to alter notarized documents. Plaintiff Gallegos addressed this issue with Defendant Jones, who told Plaintiff Gallegos that too many agencies were complaining to headquarters about the required documents.
193. Plaintiff Gallegos told Defendant Jones he would not alter any notarized documents.
194. In January, 2013 Defendant Jones told Plaintiff Gallegos the staff would have to start "Teaching the Test" to the police cadets.
195. Plaintiffs Voiles, Puga and Gallegos raised concerns to Defendant Jones because they had to "Start Teaching the Test".

196. On February 11, 2013, Plaintiff Gallegos submitted a written response to Defendants Jones, Mooney and Eden stating he would not alter notarized documents and he would not teach the test.

197. On February 13, 2013, Defendant Jones held a meeting with the LEA Staff and ordered Plaintiff Gallegos to rescind his letter. Plaintiff Gallegos refused to rescind the letter.

198. On January 31, 2013, Plaintiff Gallegos provided a written recommendation for disciplinary action against two police cadets when it was reported a female cadet had been discovered in one of the male cadets' dormitory rooms. One of the cadets was the son of Defendant Mooney. Defendant Jones later informed Plaintiff Gallegos that "Headquarters" had decided that the discipline for the two police cadets would only be a verbal discussion.

199. Plaintiff Gallegos objected to Defendant Jones concerning the change in the disciplinary actions.

200. On or about July 11, 2013, Plaintiff Gallegos was terminated from his position with LEA.

201. Plaintiff Gallegos was terminated, in violation of the Whistleblower Protection Act, for investigating issues related to the Basic Academy curriculum; for investigation issues related to missing firearms and equipment; for drafting or participating in the creation of memos to Defendants Eden, Mooney, Medina, Jones and Shea; for refusing to alter legally notarized documents; for refusing to "teach the test"; and, for recommending disciplinary actions against Defendant Mooney's son.

202. Plaintiff Gallegos was terminated, in violation of the Whistleblower Protection Act, in retaliation for disclosing the issues related to the Basic Academy curriculum, missing

firearms and equipment to persons outside of the LEA, including but not limited to, Major Weaver.

203. Plaintiff Gallegos was terminated, in violation of the Whistleblower Protection Act, in an attempt to cover up the issues related to the LEA as detailed above.

204. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiff Gallegos for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondent superior*.

205. As a direct and proximate result of the actions of all Defendants, Plaintiff Gallegos suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Gallegos demands judgment in his favor and against all Defendants, jointly and/or severely, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 9 - VIOLATION OF DUE PROCESS

PHILIP GALLEGOS – ALL DEFENDANTS

206. Paragraphs 1 through 205 are incorporated herein as if set forth at length.

207. On February 14, 2013, Defendants Jones and Medina informed Plaintiff Gallegos that "he was not working out and would be moved out of the basic bureau".

208. Some time prior to June 6, 2013, Plaintiff Gallegos was placed under investigation by DPS without being given notice as required by state statute.

209. On June 11, 2013 Plaintiff Gallegos was provided with a Notice of Investigation which covered alleged incidents beginning in June of 2012 and covering a period of over one year.

210. The Notice of Investigation did not contain the names of all known complainants and was vague as to many of the allegation of misconduct, in violation of state statute.

211. On June 11, 2013 Plaintiff Gallegos was forced to give a compelled employee statement which lasted over two hour and forty minutes, again in violation of state statute.

212. On or about June 25, 2013, Plaintiff Gallegos was issued a Notice of Contemplated Action, dated June 17, 2013.

213. On or about July 8, 2013, Plaintiff Gallegos submitted a written response to the Notice of Contemplated Action, dated July 5, 2013.

214. On or about July 11, 2013, Phillip Gallegos received the Notice of Final Action – Termination, via hand-delivery, without Defendants complying with state statutes.

215. Pursuant to 29-14-2 and 29-14-4 an officer under investigation is to be notified of such and certain rights shall then attach.

216. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy had a duty to follow the requirements and did not do so.

217. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiff for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of

respondent superior.

218. As a direct and proximate result of the actions of all Defendants, Plaintiff Gallegos suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Gallegos demands judgment in his favor and against all Defendants, jointly and/or severely, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 10 – DEFAMATION

PHILIP GALLEGOS – ALL DEFENDANTS

219. Paragraphs 1 through 218 are incorporated herein as if set forth at length.
220. In May of 2013, Plaintiff Gallegos, who had sought employment outside of DPS, was informed by a perspective employer that they were told by DPS that there were moral and ethical behavior issues with him and therefore could not look at him as a perspective employee.
221. On or about July 11, 2013, Plaintiff Gallegos was terminated from his position with LEA.
222. Following Plaintiff Gallegos' termination Defendant Jones told the LEA instructors, including Plaintiffs Voiles and Puga, that Plaintiff Gallegos was terminated for unprofessional behavior and lying about the Academy.
223. Defendants' statements that Plaintiff Gallegos was terminated for unprofessional behavior and lying about the Academy were concerning Plaintiff Gallegos.
224. Defendants' statements were made to the other Law Enforcement Academy instructors.
225. Defendants' statements were false and exposed Plaintiff Gallegos to contempt, harmed his reputation and/or discouraged others from associating or dealing with him.

226. Defendants' statements were negligently made and conveyed its meaning to the other instructors of the Law Enforcement Academy.

227. As a direct and proximate result of Defendants' statements, Plaintiff Gallegos has suffered injuries and damages including, but not limited to the following:

- a. Out of pocket expenses for legal fees;
- b. Harm to plaintiff's good name and character among his friends, neighbors and acquaintances;
- c. Harm to plaintiff's good standing in the community;
- d. Personal humiliation;
- e. Decreased social activities and loss of life's pleasures; and,
- g. Mental anguish and suffering;

WHEREFORE, Plaintiff Gallegos demands judgment in his favor and against all Defendants, and an award for compensatory damages and punitive damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 11 - VIOLATION OF DUE PROCESS EARL C. VOILES - ALL DEFENDANTS

228. Paragraphs 1 through 227 are incorporated herein as if set forth at length.

229. In March and May of 2012, Plaintiff Voiles was placed under investigation by DPS without being given notice as required by state statute.

230. In June and July of 2012 Plaintiff Voiles employment file and police instructor certification history were missing and could not be found.

231. In July of 2012 Plaintiff Voiles' police certification had been improperly revoked and he was no longer certified as a police officer.

232. Plaintiff Voiles objected and requested that his certification be reinstated and filed a formal complaint. Although Plaintiff Voiles' police certification was reinstated, no other formal investigation was ever made.

233 Pursuant to 29-14-2 and 29-14-4 an officer under investigation is to be notified of such and certain rights shall then attach.

234. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy had a duty to follow the requirements and did not do so.

235. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiff Voiles for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondet superior*.

236. As a direct and proximate result of the actions of all Defendants, Plaintiff Voiles suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Voiles demands judgment in his favor and against all Defendants, jointly and/or severely, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 12 – NEGLIGENCE and WHISTLE BLOWER RETALIATION

EARL C. VOILES - ALL DEFENDANTS

237. Paragraphs 1 through 236 above are incorporated here as if set forth at length

238. On April 16, 2013 Plaintiff Earl Voiles sustained a work related injury to his back and was placed on worker's compensation.

239. Plaintiff Earl Voiles was approved and scheduled through worker's compensation to undergo back surgery on May 24, 2013, however, Earl Voiles' worker's compensation was cancelled and Plaintiff Earl Voiles was required to use his own health insurance to have the surgery performed. Three (3) days later Plaintiff's Earl Voiles' worker's compensation was reinstated.

240. Plaintiff Earl Voiles requested, through HR Director Vicki Bowser, information concerning who had interfered with his workers' compensation claim but was never provided any information.

241. On July 1, 2013 Plaintiff Earl Voiles returned to work on a limited duty status with restriction on his physical duties and abilities including a limitation on running.

242. On July 10, 2013, Defendant Shea informed Plaintiff Earl Voiles that unless he was returned to "full duty" and performed the 1 ½ mile run he would not be considered part of the team, even though Voiles had an exemplary performance evaluation.

243. During the remainder of July 2013 Defendant Jones required Plaintiff Earl Voiles to perform physical training including a daily 1 ½ mile run in contradiction of his light duty restriction.

244. When Plaintiff Earl Voiles was unable to perform the runs he was belittled and berated by Defendant Jones.

245. Plaintiff Earl Voiles reported this activity to Human Resources Manager Swooboda and was told by Mrs. Swooboda that being required to run an hour out of each eight

hour day was "occasionally" as stated in his light duty restrictions. No other reasonable accommodations were made concerning Plaintiff Voiles' light duty restrictions.

246. On July 31, 2013 Plaintiff Earl Voiles, as a result of the required daily run, reinjured his back and was again placed on worker's compensation.

247. On September 24, 2013 Plaintiff Earl Voiles filed a formal complaint with the EEOC of a violation of the Americans with Disabilities Act of 1990 against Defendant Department of Public Safety.

248. Subsequent to the EEOC complaint Defendant Department of Public Safety ceased paying Plaintiff Earl Voiles' worker's compensation payments.

249. On November 27, 2013 Plaintiff Earl Voiles filed a complaint with the New Mexico Worker's Compensation Administration concerning the stoppage of his worker's compensation payments.

250. On January 8, 2014, Worker's Compensation Administration Mediator Richard B. McClarkin filed a Recommended Resolution recommending the Plaintiff Earl Voiles' worker's compensation payments be reinstated from the date of interruption.

251. Plaintiff Earl Voiles' worker's compensation payments were reinstated on April 4, 2013 after twenty-two (22) weeks of nonpayment.

252. As detailed above Plaintiff Voiles, during his employment with Defendant LEA, reported and made know numerous problems, irregularities, improper and possibly illegal activities associated with missing LEA firearms and equipment.

253. As a result of Plaintiff Voiles' reporting of these issues he was retaliated against by the Defendants as detailed above.

254. The retaliation included, but was not limited to, having his worker's compensation improperly tampered with.

255. All Defendants were prohibited from retaliatory actions against Plaintiffs Voiles' disclosure of the above detailed problems pursuant to NMSA 10-16C-1 et seq.

256. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiff Voiles for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondent superior*.

257. As a direct and proximate result of the actions of all Defendants, Plaintiffs Voiles suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Voiles demands judgment in their individual favor and against all Defendants, jointly and/or severely, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 13 – CONSPIRACY

ALL PLAINTIFFS – ALL DEFENDANT

258. Paragraphs 1 through 257 are incorporated herein as if set forth at length.

259. As detailed above Defendants Eden, Mooney, Medina, Jones and Shea conspired and undertook actions in furtherance thereof to retaliate against Plaintiffs Voiles, Maxwell, Puga and Gallegos in violation of the Whistleblower Protection Act.

260. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiffs Voiles,

Maxwell, Puga and Gallegos for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondere superior*.

261. As a direct and proximate result of the actions of all Defendants, Plaintiffs Voiles, Maxwell, Puga and Gallegos suffered and continue to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiffs Voiles, Maxwell, Puga and Gallegos demand judgment in their favor and against all Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 14 – DEPRIVATION OF CONSTITUTIONAL RIGHTS

ALL PLAINTIFFS – ALL DEFENDANTS

262. Paragraphs 1 through 261 are incorporated herein as if set forth at length.

263. Plaintiffs Voiles, Maxwell, Puga and Gallegos were repeatedly told that they could not discuss the above listed LEA issues with anyone outside of the New Mexico Department of Public Safety or they would be fired.

264. Plaintiffs Voiles, Puga and Gallegos were threatened with termination if they

associated with Plaintiff Maxwell following his termination.

265. Plaintiffs Voiles, Maxwell, Puga and Gallegos' right to freedom of speech is

protected under both the Constitution of the State of New Mexico and the Constitution of the

United States.

266. Plaintiffs Voiles, Maxwell, Puga and Gallegos' right to freedom of association is protected under both the Constitution of the State of New Mexico and the Constitution of the United States.

267. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiffs Voiles, Maxwell, Puga and Gallegos for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondent superior*.

268. As a direct and proximate result of the actions of all Defendants, Plaintiffs Voiles, Maxwell, Puga and Gallegos suffered and continue to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiffs Voiles, Maxwell, Puga and Gallegos demand judgment in their favor and against all Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 15 – INFLECTION OF EMOTIONAL DISTRESS ALL PLAINTIFFS – ALL DEFENDANTS

269. Paragraphs 1 through 268 above are incorporated herein as if set forth at length.

270. The actions of all Defendants, as detailed above and incorporated herein by reference were intentional, extreme and outrageous under the circumstances, and were beyond the bounds of common decency and were atrocious and intolerable to the ordinary person.

271. The intentional actions pursued by Defendants, as detailed above and incorporated herein by reference, caused Plaintiffs Voiles, Maxwell, Puga and Gallegos to suffer

sever emotional distress, including but not limited to, public ridicule, degradation, anxiety, embarrassment, loss of sleep, fear for their personal safety, and loss of standing within the community.

272. The damages detailed above were the direct and proximate result of the intentional actions of Defendants.

WHEREFORE, Plaintiffs Voiles, Maxwell, Puga and Gallegos demand judgment in their favor and against all Defendants, jointly and severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 16 - NEGLIGENCE HIRING, TRAINING AND SUPERVISION

ALL PLAINTIFFS - ALL DEFENDANTS

273. Paragraphs 1 through 272 are incorporated herein as if set forth at length.

274. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy through its public employees, negligently caused damages, as detailed above, against Plaintiffs Voiles, Maxwell, Puga and Gallegos due to their negligent hiring, training, and supervision of Defendants Eden, Mooney, Medina, Jones and Shea.

275. Defendants Eden, Mooney, Medina, Jones and Shea were not properly supervised through the course of the retaliation against Plaintiffs Voiles, Maxwell, Puga and Gallegos.

276. Defendants State of New Mexico Department of Public Safety and State of New Mexico Law Enforcement Academy are directly and/or vicariously liable to Plaintiffs for the actions or omissions of Defendants Eden, Mooney, Medina, Jones and Shea under the doctrine of *respondent superior*.

277. As a direct and proximate result of the actions of all Defendants, Plaintiffs Voiles,

Maxwell, Puga, and Gallegos suffered and continue to suffer compensatory damages and

emotional distress.

WHEREFORE, Plaintiffs Voiles, Maxwell, Puga and Gallegos demand judgment in their

favor and against all Defendants, jointly and/or severely, and an award for compensatory

damages together with costs of suit and attorney's fees, and such other relief as may be just and

proper under the circumstances of this case.

Respectfully submitted

\S\ Joseph E. Campbell, Esq.
Electronically Signed

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